

State of South Dakota

EIGHTIETH SESSION LEGISLATIVE ASSEMBLY, 2005

439L0743

HOUSE BILL NO. 1222

Introduced by: Representatives O'Brien, Boomgarden, Cutler, Hennies, Kraus, Murschel, and Willadsen and Senators Olson (Ed) and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to establish child neglect and endangerment as criminal
2 offenses and to provide penalties therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. It is a Class 1 misdemeanor for any parent, guardian, or custodian to willfully
5 deprive a child of necessary food, clothing, shelter, health care, or supervision appropriate to
6 the child's age, if the parent, guardian, or custodian is reasonably able to make the necessary
7 provisions and the deprivation harms or is likely to substantially harm the child's physical,
8 mental, or emotional health. However, if the deprivation results in substantial harm to the child's
9 physical, mental, or emotional health, the violation is a Class 6 felony.

10 Section 2. It is a Class 1 misdemeanor for any parent, guardian, or custodian to knowingly
11 permit any continuing physical or sexual abuse of a child.

12 Section 3. It is a Class 1 misdemeanor for any parent, guardian, or custodian to:

13 (1) Intentionally or recklessly cause or permit a child to be placed in a situation likely to
14 substantially harm the child's physical, mental, or emotional health or cause the
15 child's death; or



1 (2) Knowingly cause or permit a child to be present where any person is committing a
2 crime punishable as a felony pursuant to chapter 22-42 concerning the distribution,
3 manufacture, or possession of any controlled drug or substance.

4 However, if the endangerment results in substantial harm to the child's physical, mental, or
5 emotional health, the violation is a Class 6 felony.

6 Section 4. It is a defense to prosecution under this Act if, at the time of the offense, there
7 was a reasonable apprehension in the mind of the defendant that acting to stop or to prevent the
8 offense would result in substantial bodily harm to the defendant or the child in retaliation.

9 Section 5. The code counsel shall codify this Act in a newly created chapter in Title 22
10 entitled "Offenses Against the Family."